

which abatement must be achieved, and that failure to abate subjects the respondent to additional penalties as prescribed in subpart G of this part.

[50 FR 40306, Oct. 2, 1985, as amended at 53 FR 2036, Jan. 26, 1988; 56 FR 10182, Mar. 11, 1991]

#### **§ 386.12 Complaint.**

(a) *Filing of a complaint.* Except as otherwise provided in paragraph (c) of this section, any person, State board, organization, or body politic may file a written complaint with the Associate Administrator, requesting the issuance of a notice of investigation under § 386.11(c). Each complaint must contain:

- (1) The name and address of the party who files it, and a statement specifying the authority for a party (other than a natural person) to file the complaint;
- (2) A statement of the interest of the party in the proceedings;
- (3) The name and address of each motor carrier against who relief is sought;
- (4) The reasons why the party believes that a notice of investigation should be issued;
- (5) A statement of any prior action which the party has taken to redress the violations of law alleged in the complaint and the results of that action; and
- (6) The relief which the party believes the Administration should seek.

(b) *Action on paragraph (a) complaint.* Upon the filing of a complaint under paragraph (a) of this section, the Associate Administrator shall determine whether it states reasonable grounds for investigation and action by the Administration. If he/she determines that the complaint states such grounds, the Associate Administrator shall issue, or authorize the issuance of, a notice of investigation under § 386.11(c). If he/she determines that the complaint does not state reasonable grounds for investigation and action by the Administration, the Associate Administrator shall dismiss it.

(c) *Complaint of substantial violation.* Any person may file a written complaint with the Associate Administrator alleging that a substantial violation of any regulation issued under the Motor Carrier Safety Act of 1984 is occurring or has occurred within the

preceding 60 days. A substantial violation is one which could reasonably lead to, or has resulted in, serious personal injury or death. Each complaint must be signed by the complainant and must contain:

- (1) The name, address, and telephone number of the person who files it;
- (2) The name and address of the alleged violator and, with respect to each alleged violator, the specific provisions of the regulations that the complainant believes were violated; and
- (3) A concise but complete statement of the facts relied upon to substantiate each allegation, including the date of each alleged violation.

(d) *Action on complaint of substantial violation.* Upon the filing of a complaint of a substantial violation under paragraph (c) of this section, the Associate Administrator shall determine whether it is nonfrivolous and meets the requirements of paragraph (c) of this section. If the Associate Administrator determines that the complaint is nonfrivolous and meets the requirements of paragraph (c), he/she shall investigate the complaint. The complainant shall be timely notified of findings resulting from such investigation. The Associate Administrator shall not be required to conduct separate investigations of duplicative complaints. If the Associate Administrator determines that the complaint is frivolous or does not meet the requirements of paragraph (c), he/she shall dismiss the complaint and notify the complainant in writing of the reasons for such dismissal.

(e) Notwithstanding the provisions of section 552 of title 5, United States Code, the Associate Administrator shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Associate Administrator shall take every practical means within the Associate Administrator's authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.